

STATE OF MICHIGAN  
COURT OF APPEALS

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JAMES L. ROACH, JR. and THOMAS A.  
ROACH,

UNPUBLISHED  
March 15, 2005

Plaintiffs-Appellants/Cross-  
Appellees,

v

TOWNSHIP OF LAPEER,

No. 251088  
Lapeer Circuit Court  
LC No. 01-030638-CE

Defendant-Appellee/Cross-  
Appellant.

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Before: Wilder, P.J., and Fitzgerald and Kelly, JJ.

MEMORANDUM.

In this case involving a zoning dispute, plaintiffs appeal as of right an order granting summary disposition to defendant. We affirm.

After reviewing the record, we conclude that the trial court correctly ruled that it lacked jurisdiction over plaintiffs' claims because plaintiffs did not exhaust their administrative remedies or obtain a final determination of the type of offices defendant would permit on plaintiffs' land under a special land use permit. Because R-1B (single family residential) zoning permits offices under a special land use permit, plaintiffs cannot claim a confiscatory taking, and their exclusionary zoning claim fails for the same reason: offices are permitted on plaintiffs' land, even if it is not zoned O-1 (general office). Even the plaintiffs characterize their claim as an as-applied challenge to defendant's zoning ordinance. Michigan law clearly requires that, before filing as-applied challenges in court, plaintiffs must pursue their administrative remedies until they obtain a final nonjudicial determination about the permitted uses of their property. See *Paragon Properties Co v City of Novi*, 452 Mich 568; 550 NW2d 772 (1996); *Braun v Ann Arbor Charter Twp*, 262 Mich App 154; 683 NW2d 755 (2004). Plaintiffs have not done so; nor have they offered any support for their claim of futility.<sup>1</sup>

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<sup>1</sup> Because we affirm the trial court's dismissal for lack of jurisdiction, we do not consider the alternative grounds for affirming the trial court decision that defendant presents in its cross-  
(continued...)

Affirmed.

/s/ Kurtis T. Wilder  
/s/ E. Thomas Fitzgerald  
/s/ Kirsten Frank Kelly

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(...continued)

appeal.